

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIH

WRIT PETITION NO. 25766/1991

Between:

1. Sri M. Narayanappa,
aged about 49 years,
son of Marappa.

2. M. Muniyappa,
aged about 36 years,
son of Marappa.

3. Sri M. Rajanna,
aged about 36 years,
son of Marappa,

All are residing at
No.85, Idachanahalli
village, Uttarahalli
Hobli,
Bangalore South Taluk.

..Petitioners

(Sri G. Papi Reddy, Advocate)

And:

1. The Special Land
Acquisition Office.,
Bangalore Dev-elopment
Authority, Bangalore.

2. The Dharmadasa,
Sri Kumaaraswami Temple,
Mount Joy,
Hanumanthanagar,
Bangalore.

3. The Muzarai Asst.,
Muzrai Works,
Corporation Area,
Bangalore.

4. The Commissioner,
Charity Endowments,
Bangalore,

5. The Tahsildar,
Bangalore South Taluk,
Bangalore.

..Respondents

(Sri K. Sridhar & N.S.Srinivasan, Advocates
for R.1.
Sri K. Nagaraja, HCGP for R.1, R.4 and R.5)

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Writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 9.4.1991 vide Annexure-E and prevent the respondents 2 to 4 from claiming or receiving the amount of compensation deposited in Execution No.11/8/1990 pending before the Court of IX Addl. City Civil Judge, Bangalore.

This petition coming up for preliminary hearing in B group today, the Court made the following:

ORDER

The petitioners claim to be the owners of 5 acres each having registered as occupants under the provisions of the Karnataka Religious and Charitable Inams Abolition Act. The said lands were acquired by the State Government for a public purpose. Thereafter the Land Acquisition Officer passed an award determining the market value. The Dharmadashi of the temple claiming

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to be the owner of the land made an application for reference to the Civil Court under Section 18 of the Land Acquisition Act having not satisfied with the market value. It appears on the said reference the Civil Judge enhanced the market value. Subsequently, the petitioners filed applications before the Special Deputy Commissioner for re-determination of the compensation under Section 28-A of the Land Acquisition Act. The said applications were rejected as not maintainable holding that in respect of the very land Civil Judge has enhanced the market value on reference. This endorsement is called in question by the petitioners in this writ petition.

2. Section 28-A of the Land Acquisition Act has no application since in respect of the very land the market value has been enhanced by the Civil Judge on reference. If the Dharmadarshi or a Commissioner of Religious and Charitable Endowments has received the amount of compensation even though they have no right to do so on reference. it is open for the petitioner to file a civil suit for recovery of the said

amount from them. But they cannot maintain a separate application for re-determination under section 25-A of the Land Acquisition Act. The learned Government Advocate submitted that the petitioners have already filed a civil suit before the Civil Judge, Bangalore as indigent persons. If that is so, no relief can be granted to the petitioners in this writ petition.

5. In the result, I pass the following order:

Writ petition is rejected. However, liberty is reserved to the petitioners to work out their rights in the civil suit.

Sd/-
JUDGE

G/260598

